

TESTIMONY OF

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BEFORE THE

HOUSE COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH

HEARING ON

SPECIALTY HOSPITALS: ASSESSING THEIR ROLE
IN THE DELIVERY OF QUALITY HEALTH CARE

May 12, 2005

Mr. Chairman, Members of the Committee, my name is John T. Thomas, and I am the General Counsel of Baylor Health Care System, based in Dallas-Fort Worth, Texas. Baylor is a 101 year old, faith based institution, with strong ties to the Baptist General Convention of Texas.

It is an honor for me to address you today on behalf of the Baylor Health Care System and to ask you to allow the moratorium on the development and growth of physician-owned specialty hospitals to end June 8, without renewal.

Baylor Health Care System is the corporate sponsor of 13 non-profit hospitals. Our flagship —Baylor University Medical Center (BUMC) is located in downtown Dallas. BUMC is a 1,000 bed quaternary teaching hospital, with a Level I trauma center that provides care to more penetrating trauma victims than Dallas County's tax-supported Parkland hospital. BUMC has the largest Neonatal ICU in the Southwest, and one of the five largest organ transplant programs in the Country. Baylor Health Care System is deeply committed to its mission as a non-profit hospital. Last year, we provided more than \$240 million in Community Benefits, at cost and not including bad debt. Charity care is provided under the most generous Charity Care/Financial Assistance policy among all Dallas-Fort Worth hospitals, including Parkland.

At the same time, Baylor has a long history of innovation. In the early 1900s, Baylor developed the "pre-paid hospital plan," which today operates as the Blue Cross Blue Shield Association. With the changes in medical practice, Baylor has sought, and continues to seek, new and innovative ways to lower the cost of the delivery of care, while improving quality, safety and satisfaction.

One of the most effective strategies Baylor has implemented is partnering with physicians economically and, more importantly, clinically, in the design, development and operation of ambulatory surgery centers, surgical hospitals, and heart hospitals. Today, Baylor has an ownership interest in 25 facilities partnered with physicians. Over 2000 physicians actively practice at these facilities, while only about 500 have an ownership interest. Texas Health Resources, the other major non-profit hospital system in Dallas-Fort Worth also has a number of hospitals and facilities partnered with physicians.

Five of Baylor's facilities are affected by the Moratorium. Three are surgical hospitals. Two are heart hospitals. Each is critically important to the mission of Baylor Health Care System, and in each case, we have followed the guidelines developed by the IRS in Revenue Ruling 98-15 for partnerships between tax-exempt organizations like Baylor and for-profit organizations (like individual physicians). The IRS requires the tax-exempt entity to have certain governance controls with respect to the partnership and for the partners to agree, by contract, that "charitable interests" will prevail over for-profit interests. They all participate in Medicare and Texas Medicaid and they all agree to take all patients regardless of their ability to pay. While physicians contribute their time, energy and capital, Baylor, through lay members of the community, including pastors and other community leaders, actively participate and oversee this strategy, and have determined partnering with physicians is in the best interest of our Mission and the communities we serve.

With respect to each of our surgical hospitals, a Baylor controlled entity owns at least 50.1% of the equity in a partnership that owns and operates a licensed hospital. For our two heart hospitals, the Baylor controlled entity is actually the adjacent Baylor hospital.

Our flagship hospital, Baylor University Medical Center, owns 51% of the Baylor Jack and Jane Hamilton Heart and Vascular Hospital, located adjacent to and physically attached to BUMC, in the inner city of Dallas. Cardiologists and vascular surgeons invested the capital necessary to own the remaining 49% of the equity in the facility. In north Dallas, the Baylor Regional Medical Center at Plano owns 51% of the Texas Heart Hospital of the Southwest, LLP, and 83 cardiologists, cardio-thoracic surgeons and vascular surgeons own the 49% interest. Notably, the Texas Heart Hospital physician partners agreed the hospital would be committed to the Texas state law requirement for Charity Care for tax-exempt hospitals. The physicians made this commitment to the community, despite the fact that as a for-profit facility, the hospital is not subject to the law, which requires tax-exempt hospitals to provide charity care equal to 4% of net patient revenue.

Mr. Chairman, our model of partnering with physicians has now been in operation for over six years, with Baylor's inner city Heart Hospital open for almost three years. The results have far exceeded expectations. This hospital has the highest rated heart program for quality reported on the CMS website, HospitalCompare.gov. By partnering with physicians, Baylor delivers on its mission. The fact is, we cannot deliver on all aspects of that mission without aligning with physicians. That alignment takes several forms, but in the end, each has delivered to the patient better, safer, care -- at a lower cost.

We urge you to allow the Moratorium on physician ownership and development of specialty hospitals to end June 8. The Moratorium has not been benign and a continuation will be even worse. This Moratorium has affected our ability to meet our Mission---specifically, the inner-city heart hospital needs to expand to meet the demand

for the services provided as well as to continue to attract physicians to practice at this inner-city Trauma Center. The Moratorium has prevented Baylor from bringing higher quality heart and vascular care to Plano, where heart disease remains the number 1 killer. The Moratorium has prevented the Baylor-Frisco Medical Center from expanding to provide obstetrics and other women's services to one of the fastest growing communities in the United States.

We would also note the Texas legislature has been reviewing this issue this Spring, and the Texas Senate has rejected efforts to impose any moratorium. In fact, the Texas Hospital Association testified to the Texas Senate "Baylor and Medcath are not the problem."

We urge you NOT to pass legislation that will renew the Moratorium, and urge you NOT to pass legislation now or in the future that prevents physicians from aligning with the community to bring higher quality and safer care. Physicians are part of the solution, and must be at the table to help all of us improve quality, safety, patient satisfaction, and to lower cost.

Thank you.

Executive Summary

Testimony of Baylor Health Care System by John T. Thomas, Sr. VP-General Counsel

1. Baylor Health Care System is a large, Baptist faith based institution located in Dallas-Fort Worth, Texas, that is asking Congress NOT to renew the moratorium or pass legislation affecting the ability of physicians to own hospitals or other facilities.
2. Baylor provided over \$240 Million in Charity Care and other Community Benefits in 2004
3. Baylor has large network of non-profit hospitals, including large, Level 1 Trauma, Inner-City Academic Medical Center, Baylor University Medical Center, located in Downtown Dallas.
4. Baylor has over 25 additional facilities, operated through limited partnerships with physician investors. Most are ambulatory surgery centers, but this strategy includes 2 Heart Hospitals and 3 Surgical Hospitals---all affected by the Moratorium.
5. Baylor controls these facilities, but physicians own as much as 49% of the equity in the facilities. Ownership, governance and operation of these facilities is structured to comply with IRS Revenue Ruling 98-15.
6. Over 2000 physicians actively practice at these “joint ventured”, with only about 500 who have an ownership interest.
7. Baylor Heart and Vascular Hospital (the inner city heart hospital adjacent to BUMC in downtown Dallas) is among the highest rated heart programs in the Country on the new CMS website, HospitalCompare.gov
8. Baylor’s Mission is furthered by the “partnering” with physicians to build and operate “specialty” facilities which provide high quality, safe care, with very high patient satisfaction, at a lower cost.
9. The Moratorium has not been benign, and extensions of the moratorium will further affect Baylor’s ability to provide heart, surgical and obstetrical care in three communities served by Baylor, including the heart services provided with the inner-city Level 1 Trauma Center. DFW communities are rapidly expanding in population and health care access is becoming more and more difficult to provide, without expansion of existing and development of new, more efficient, better models of care. Partnering with physicians, and using their financial and intellectual capital to build, manage and operate these facilities has proven to be a very effective, and innovative way to meet that need, including providing access to the uninsured and Medicare/Medicaid population.